31A-19a-101. Title -- Scope and purposes.

(1) This chapter is known as the "Utah Rate Regulation Act."

(2) (a) (i) Except as provided in Subsection (2)(a)(ii), this chapter applies to all kinds and lines of direct insurance written on risks or operations in this state by an insurer authorized to do business in this state.

(ii) This chapter does not apply to:

(A) life insurance;

(B) credit life insurance;

(C) variable and fixed annuities;

(D) health and accident and health insurance;

(E) credit accident and health insurance; and

(F) reinsurance.

(b) This chapter applies to all insurers authorized to do any line of business, except those specified in Subsection (2)(a)(ii).

(3) It is the purpose of this chapter to:

(a) protect policyholders and the public against the adverse effects of excessive, inadequate, or unfairly discriminatory rates;

(b) encourage independent action by and reasonable price competition among insurers so that rates are responsive to competitive market conditions;

(c) provide formal regulatory controls for use if independent action and price competition fail;

(d) provide regulatory procedures for the maintenance of appropriate data reporting systems;

(e) authorize cooperative action among insurers in the rate-making process, and regulate that cooperation to prevent practices that bring about a monopoly or lessen or destroy competition;

(f) encourage the most efficient and economic marketing practices; and

(g) regulate the business of insurance in a manner that, under the McCarran-Ferguson Act, 15 U.S.C. Secs. 1011 through 1015, will preclude application of federal antitrust laws.

(4) Rate filings made prior to July 1, 1986, under former Title 31, Chapter 18, are continued. Rate filings made after July 1, 1986, are subject to the requirements of this chapter.

Amended by Chapter 308, 2002 General Session

31A-19a-102. Definitions.

As used in this chapter:

(1) "Classification system" or "classification" means the process of grouping risks with similar risk characteristics so that differences in anticipated costs may be recognized.

(2) (a) "Developed losses" means losses adjusted using standard actuarial techniques to eliminate the effect of differences between:

(i) current payment or reserve estimates; and

(ii) payments or reserve estimates that are anticipated to provide actual ultimate loss payments.

(b) For purposes of Subsection (2)(a), losses includes loss adjustment expense.

(3) "Dividend" means money paid to a policyholder from the remaining portion of the premium paid for a policy:

(a) based on the participating class of business; and

(b) after the insurer has made deductions for:

(i) losses;

(ii) expenses;

(iii) additions to reserves; and

(iv) profit and contingencies.

(4) "Expenses" means that portion of a rate attributable to:

(a) acquisition;

(b) field supervision;

(c) collection expenses;

(d) general expenses;

(e) taxes;

(f) licenses; and

(g) fees.

(5) "Experience rating" means a rating procedure that:

(a) uses the past insurance experience of an individual policyholder to forecast the future losses of the policyholder by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification; and

(b) produces a prospective premium credit, debit, or unity modification.

(6) "Joint underwriting" means a voluntary arrangement established to provide insurance coverage for a risk pursuant to which two or more insurers jointly contract with the insured at a price and under policy terms agreed upon between the insurers.

(7) "Loss adjustment expense" means the expenses incurred by the insurer in the course of settling claims.

(8) (a) "Market" means the interaction between buyers and sellers consisting of a:

(i) product component; and

(ii) geographic component.

(b) A product component consists of identical or readily substitutable products if the products are compared as to factors including:

(i) coverage;

(ii) policy terms;

(iii) rate classifications; and

(iv) underwriting.

(c) A geographic component is a geographical area in which buyers seek access to the insurance product through sales outlets and other distribution mechanisms or patterns.

(9) "Mass marketed plan" means a method of selling insurance when:

(a) the insurance is offered to:

(i) employees of a particular employer;

(ii) members of a particular association or organization; or

(iii) persons grouped in a manner other than described in Subsection (8)(a)(i) or (ii), except groupings formed principally for the purpose of obtaining insurance; and

(b) the employer, association, or other organization, if any, has agreed to, or otherwise affiliated itself with, the sale of insurance to its employees or members.

(10) "Prospective loss costs" means the same as pure premium rate.

(11) "Pure premium rate" means that portion of a rate that:

(a) does not include provisions for profit or expenses, other than loss adjustment expenses; and

(b) is based on historical aggregate losses and loss adjustment expenses that are:

(i) adjusted through development to their ultimate value; and

(ii) projected through trending to a future point in time.

(12) (a) "Rate" means that cost of insurance per exposure unit either expressed as:

(i) a single number; or

(ii) as a pure premium rate, adjusted before any application of individual risk variations, based on loss or expense considerations to account for the treatment of:

(A) expenses;

(B) profit; and

(C) individual insurer variation in loss experience.

(b) "Rate" does not include a minimum premium.

(13) "Rating tiers" means an underwriting and rating plan designed to categorize insurance risks that have common characteristics related to potential insurance loss into broad groups for the purpose of establishing a set of rating levels that reflect definable levels of potential hazard or risk.

(14) "Riskiness" means the variability of results around the average expected result.

(15) "Supplementary rate information" includes one or more of the following needed to determine the applicable rate in effect or to be in effect:

(a) a manual or plan of rates;

(b) a statistical plan;

(c) a classification;

(d) a rating schedule;

(e) a minimum premium;

(f) a policy fee;

(g) a rating rule;

(h) a rate-related underwriting rule;

(i) a rate modification plan; or

(j) any other similar information prescribed by rule of the commissioner as supplementary rate information.

(16) "Supporting information" includes one or more of the following:

(a) data demonstrating actuarial justification for the basic rate factors, classifications, expenses, and profit factors used by the filer;

(b) the experience and judgment of the filer;

(c) the experience or data of other insurers or rate service organizations relied upon by the filer;

(d) the interpretation of any other data relied upon by the filer;

(e) descriptions of methods used in making the rates; or

(f) any other information defined by rule as supporting information that is required to be filed.

(17) "Trending" means any procedure for projecting, for the period during which the policies are to be effective:

(a) losses to the average date of loss; or

(b) premiums or exposures to the average date of writing.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-103. Exemptions.

(1) The commissioner may by rule exempt from any or all of the provisions of this chapter:

(a) any person;

(b) a class of persons; or

(c) a market segment.

(2) The exemption described in Subsection (1) shall be given only if and to the extent that the commissioner finds the application of the provisions of this chapter to that person or group is unnecessary to achieve the purposes of this chapter.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-201. Rate standards.

(1) Rates may not be excessive, inadequate, or unfairly discriminatory.

(2) (a) Rates are not excessive if a reasonable degree of price competition exists at the consumer level with respect to the class of business to which they apply. In determining whether a reasonable degree of price competition exists, the commissioner shall consider:

(i) relevant tests of workable competition pertaining to:

(A) market structure;

(B) market performance; and

(C) market conduct; and

(ii) the practical opportunities available to consumers in the market to:

(A) acquire pricing and other consumer information; and

(B) compare and obtain insurance from competing insurers.

(b) The tests described in Subsection (2)(a) include:

(i) the size and number of insurers actively engaged in the market and class of business;

(ii) the market shares of insurers actively engaged in the market and changes in market shares;

(iii) the existence of rate differentials in that class of business;

(iv) ease of entry and latent competition of insurers capable of easy entry;

(v) availability of consumer information concerning the product and sales outlets or other sales mechanisms; and

(vi) efforts of insurers to provide consumer information.

(c) If reasonable price competition does not exist, rates are excessive if:

(i) rates are likely to produce a long-term profit that is unreasonably high in

relation to the riskiness of the class of business; or

(ii) expenses are unreasonably high in relation to the services rendered.

(3) Rates are inadequate if:

(a) they are clearly insufficient, when combined with the investment income attributable to them, to sustain the projected losses and expenses in the class of business to which they apply; and

(b) the use of such rates has or, if continued, will have:

(i) the effect of substantially lessening competition; or

(ii) the tendency to create a monopoly in any market.

(4) (a) A rate is unfairly discriminatory if price differentials fail to equitably reflect the differences in expected losses and expenses after allowing for practical limitations.

(b) A rate is not unfairly discriminatory if it is averaged broadly among persons insured under a:

(i) group, franchise, or blanket policy; or

(ii) mass marketed plan.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-202. Rating methods.

(1) To determine whether rates comply with the standards under Section 31A-19a-201, the commissioner shall consider the:

(a) criteria listed in Subsection (2);

(b) classifications, if any, permitted under Subsection (3);

(c) expenses described in Subsection (4); and

(d) profits described in Subsection (5).

(2) In determining rates the commissioner shall consider within and outside of Utah:

(a) past and prospective loss experience;

(b) catastrophe hazards;

(c) trends;

(d) loadings for leveling premium rates over time;

(e) reasonable margin for profit and contingencies;

(f) dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders; and

(g) other relevant factors.

(3) (a) Risks may be grouped by classifications for the establishment of rates and minimum premiums.

(b) (i) A classification rate may be modified to produce rates for individual risks in accordance with rating plans or schedules that establish reasonable standards for measuring probable variations in hazards or expense provisions.

(ii) The standards described in Subsection (3)(b)(i) may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.

(c) Notwithstanding Subsection (3)(b), risk classification may not be based upon race, color, creed, national origin, or the religion of the insured.

(4) The expense provisions included in the rates to be used by an insurer shall

reflect:

(a) the operating methods of the insurer; and

(b) its anticipated expenses.

(5) The rates may contain provision for contingencies and an allowance permitting a profit that is not unreasonable in relation to the riskiness of the class of business. In determining the reasonableness of the profit, consideration may be given to investment income.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-203. Rate filings.

(1) (a) Except as provided in Subsections (4) and (5), every authorized insurer and every rate service organization licensed under Section 31A-19a-301 that has been designated by any insurer for the filing of pure premium rates under Subsection 31A-19a-205(2) shall file with the commissioner the following for use in this state:

(i) all rates;

(ii) all supplementary information; and

(iii) all changes and amendments to rates and supplementary information.

(b) An insurer shall file its rates by filing:

(i) its final rates; or

(ii) either of the following to be applied to pure premium rates that have been filed by a rate service organization on behalf of the insurer as permitted by Section 31A-19a-205:

(A) a multiplier; or

(B) (I) a multiplier; and

(II) an expense constant adjustment.

(c) Every filing under this Subsection (1) shall state:

(i) the effective date of the rates; and

(ii) the character and extent of the coverage contemplated.

(d) Except for workers' compensation rates filed under Sections 31A-19a-405 and 31A-19a-406, each filing shall be within 30 days after the rates and supplementary information, changes, and amendments are effective.

(e) A rate filing is considered filed when it has been received:

(i) with the applicable filing fee as prescribed under Section 31A-3-103; and

(ii) pursuant to procedures established by the commissioner.

(f) The commissioner may by rule prescribe procedures for submitting rate filings by electronic means.

(2) (a) To show compliance with Section 31A-19a-201, at the same time as the filing of the rate and supplementary rate information, an insurer shall file all supporting information to be used in support of or in conjunction with a rate.

(b) If the rate filing provides for a modification or revision of a previously filed rate, the insurer is required to file only the supporting information that supports the modification or revision.

(c) If the commissioner determines that the insurer did not file sufficient supporting information, the commissioner shall inform the insurer in writing of the lack of sufficient supporting information.

(d) If the insurer does not provide the necessary supporting information within 45 calendar days of the date on which the commissioner mailed notice under Subsection (2)(c), the rate filing may be:

(i) considered incomplete and unfiled; and

(ii) returned to the insurer as:

(A) not filed; and

(B) not available for use.

(e) Notwithstanding Subsection (2)(d), the commissioner may extend the time period for filing supporting information.

(f) If a rate filing is returned to an insurer as not filed and not available for use under Subsection (2)(d), the insurer may not use the rate filing for any policy issued or renewed on or after 60 calendar days from the date the rate filing was returned.

(3) At the request of the commissioner, an insurer using the services of a rate service organization shall provide a description of the rationale for using the services of the rate service organization, including the insurer's:

(a) own information; and

(b) method of use of the rate service organization's information.

(4) (a) An insurer may not make or issue a contract or policy except in accordance with the rate filings that are in effect for the insurer as provided in this chapter.

(b) Subsection (4)(a) does not apply to contracts or policies for inland marine risks for which filings are not required.

(5) Subsection (1) does not apply to inland marine risks, which, by general custom, are not written according to standardized manual rules or rating plans.

(6) (a) The insurer may file a written application, stating the insurer's reasons for using a higher rate than that otherwise applicable to a specific risk.

(b) If the application described in Subsection (6)(a) is filed with and not disapproved by the commissioner within 10 days after filing, the higher rate may be applied to the specific risk.

(c) The rate described in this Subsection (6) may be disapproved without a hearing.

(d) If disapproved, the rate otherwise applicable applies from the effective date of the policy, but the insurer may cancel the policy pro rata on 10 days' notice to the policyholder.

(e) If the insurer does not cancel the policy under Subsection (6)(d), the insurer shall refund any excess premium from the effective date of the policy.

(7) (a) Agreements may be made between insurers on the use of reasonable rate modifications for insurance provided under Section 31A-22-310.

(b) The rate modifications described in Subsection (7)(a) shall be filed immediately upon agreement by the insurers.

Amended by Chapter 117, 2004 General Session

31A-19a-204. Rates open to inspection.

(1) Rates and supplementary rate information filed under this chapter shall be open to public inspection at any reasonable time.

(2) The commissioner shall supply copies to any person on:
(a) request; and
(b) payment of a reasonable charge.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-205. Delegation of rate making and rate filing obligation.

(1) An insurer may:

(a) itself establish rates and supplementary rate information for any market segment based on the factors in Section 31A-19a-202; or

(b) use rates, pure premium rates, and supplementary rate information prepared by a rate service organization that the insurer selects, with:

(i) average expense factors determined by the rate service organization; or

(ii) any modification for its own expense and loss experience as the credibility of that experience allows.

(2) An insurer may discharge its obligation under Subsection 31A-19a-203(1) by filing with the commissioner:

(a) notification that the insurer uses pure premium rates and supplementary rate information prepared by a licensed rate service organization that the insurer selects; and

(b) any information about modifications the insurer has made to those rates or that information as is necessary fully to inform the commissioner.

(3) If an insurer has discharged its obligation in accordance with Subsection (2), the insurer's rates and supplementary rate information shall be those, including any amendments, filed at intervals by the rate service organization, subject to any modifications filed by the insurer.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-206. Disapproval of rates.

(1) (a) Except for a conflict with the requirements of Section 31A-19a-201 or 31A-19a-202, the commissioner may disapprove a rate at any time that the rate directly conflicts with:

(i) this title; or

(ii) any rule made under this title.

(b) The disapproval under Subsection (1)(a) shall:

(i) be in writing;

(ii) specify the statute or rule with which the filing conflicts; and

(iii) state when the rule is no longer effective.

(c) (i) If an insurer's or rate service organization's rate filing is disapproved under Subsection (1)(a), the insurer or rate service organization may request a hearing on the disapproval within 30 calendar days of the date on which the order described in Subsection (1)(a) is issued.

(ii) If a hearing is requested under Subsection (1)(c)(i), the commissioner shall schedule the hearing within 30 calendar days of the date on which the commissioner receives the request for a hearing.

(iii) After the hearing, the commissioner shall issue an order:

(A) approving the rate filing; or

(B) disapproving the rate filing.

(2) (a) If within 90 calendar days of the date on which a rate filing is filed the commissioner finds that the rate filing does not meet the requirements of Section 31A-19a-201 or 31A-19a-202, the commissioner shall send a written order disapproving the rate filing to the insurer or rate organization that made the filing.

(b) The order described in Subsection (2)(a) shall specify how the rate filing fails to meet the requirements of Section 31A-19a-201 or 31A-19a-202.

(c) (i) If an insurer's or rate service organization's rate filing is disapproved under Subsection (2)(a), the insurer or rate service organization may request a hearing on the disapproval within 30 calendar days of the date on which the order described in Subsection (2)(a) is issued.

(ii) If a hearing is requested under Subsection (2)(c)(i), the commissioner shall schedule the hearing within 30 calendar days of the date on which the commissioner receives the request for a hearing.

(iii) After the hearing, the commissioner shall issue an order:

(A) approving the rate filing; or

(B) (I) disapproving the rate filing; and

(II) stating when, within a reasonable time from the date on which the order is issued, the rate is no longer effective.

(d) In a hearing held under this Subsection (2), the insurer or rate service organization bears the burden of proving compliance with the requirements of Section 31A-19a-201 or 31A-19a-202.

(3) (a) If the order described in Subsection (2)(a) is issued after the implementation of the rate filing, the commissioner may order that use of the rate filing be discontinued for any policy issued or renewed on or after a date not less than 30 calendar days from the date the order was issued.

(b) If an insurer or rate service organization requests a hearing under Subsection (2), the order to discontinue use of the rate filing is stayed:

(i) beginning on the date the insurer or rate service organization requests a hearing; and

(ii) ending on the date the commissioner issues an order after the hearing that addresses the stay.

(4) If the order described in Subsection (2)(a) is issued before the implementation of the rate filing:

(a) an insurer or rate service organization may not implement the rate filing; and

(b) the rates of the insurer or rate service organization at the time of disapproval continue to be in effect.

(5) (a) If after a hearing the commissioner finds that a rate that has been previously filed and has been in effect for more than 90 calendar days no longer meets the requirements of Section 31A-19a-201 or 31A-19a-202, the commissioner may order that use of the rate by any insurer or rate service organization be discontinued.

(b) The commissioner shall give any insurer that will be affected by an order that may be issued under Subsection (5)(a) notice of the hearing at least 10 business days prior to the hearing.

(c) The order issued under Subsection (5)(a) shall:

(i) be in writing;

(ii) state the grounds for the order; and

(iii) state when, within a reasonable time from the date on which the order is issued, the rate is no longer effective.

(d) The order issued under Subsection (5)(a) may not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

(e) The order issued under Subsection (5)(a) may include a provision for a premium adjustment for contracts or policies made or issued after the effective date of the order.

(6) (a) When an insurer has no legally effective rates as a result of the commissioner's disapproval of rates or other act, the commissioner shall, on the insurer's request, specify interim rates for the insurer.

(b) An interim rate described in Subsection (6)(a):

(i) shall be high enough to protect the interests of all parties; and

(ii) may, when necessary to protect the policyholders, order that a specified portion of the premiums be placed in an escrow account approved by the commissioner.

(c) When the new rates become effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that minimal refunds to policyholders need not be distributed.

Amended by Chapter 297, 2011 General Session

31A-19a-207. Delayed effect of rates.

(1) (a) The commissioner may by rule require that insurers in a market segment file with the commissioner any changes in rates or supplementary rate information at least 30 calendar days before they become effective if the commissioner finds, after a hearing, that in that market segment:

(i) competition is not an effective regulator of the rates charged;

(ii) that a substantial number of companies are competing irresponsibly through the rates charged; or

(iii) that there are widespread violations of this chapter.

(b) The commissioner may extend the waiting period under Subsection (1)(a) for not to exceed 30 additional calendar days by written notice to the filer before the first 30-day period expires.

(c) In determining whether competition is an effective regulator of the rates charged, the commissioner shall consider, as to the particular market segment:

(i) the number of insurers actively engaged in providing coverage;

(ii) the respective market shares of insurers providing coverage;

(iii) the volatility of market share fluctuations;

(iv) the ease of entry into the market; and

(v) any other known relevant factors.

(2) (a) If the commissioner finds that a market segment is noncompetitive under Subsection (1), all rates previously filed and in use may continue to be used until disapproved.

(b) After a finding of a noncompetitive market under Subsection (1), for purposes of disapproval, the commissioner shall treat the filing of existing rates as having been filed as of the date of the rule under Subsection (1).

(3) A competitive market is presumed to exist, unless the commissioner makes a contrary finding under Subsection (1).

(4) (a) A rule issued under Subsection (1) expires no later than one year from the date on which the rule was adopted, unless the commissioner, after a hearing, renews the rule.

(b) A renewal hearing for a rule issued under Subsection (1) may not be held earlier than nine months after the date on which the rule was issued or last renewed.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-208. Special restrictions on individual insurers.

(1) The commissioner may require by order that a particular insurer file any or all of its rates and supplementary rate information 30 calendar days prior to their effective date, if the commissioner finds, after a hearing, that to protect the interests of the insurer's insureds and the public in Utah, the commissioner shall exercise closer supervision of the insurer's rates, because of the insurer's financial condition or rating practices.

(2) The commissioner may extend the waiting period described in Subsection (1) for any filing for not to exceed 30 additional calendar days, by written notice to the insurer before the first 30-day period expires.

(3) A filing that has not been disapproved before the expiration of the waiting period is considered to meet the requirements of this chapter, subject to the possibility of subsequent disapproval under Section 31A-19a-206.

Amended by Chapter 297, 2011 General Session

31A-19a-209. Special provisions for title insurance.

(1) (a) (i) The Title and Escrow Commission shall adopt rules subject to Section 31A-2-404, establishing rate standards and rating methods for individual title insurance producers and agency title insurance producers.

(ii) The commissioner shall determine compliance with rate standards and rating methods for title insurance insurers, individual title insurance producers, and agency title insurance producers.

(b) In addition to the considerations in determining compliance with rate standards and rating methods as set forth in Sections 31A-19a-201 and 31A-19a-202, including for title insurers, the commissioner and the Title and Escrow Commission shall consider the costs and expenses incurred by title insurance insurers, individual title insurance producers, and agency title insurance producers peculiar to the business of title insurance including:

(i) the maintenance of title plants; and

(ii) the searching and examining of public records to determine insurability of title to real redevelopment property.

(2) (a) Every title insurance insurer or agency title insurance producer, and every

individual title insurance producer who is not designated by an agency title insurance producer, shall file with the commissioner:

(i) a schedule of the escrow charges that the title insurance insurer, individual title insurance producer, or agency title insurance producer proposes to use in this state for services performed in connection with the issuance of policies of title insurance; and

(ii) any changes to the schedule of the escrow charges described in Subsection (2)(a)(i).

(b) Except for a schedule filed by a title insurance insurer under this Subsection (2), a schedule filed under this Subsection (2) is subject to review by the Title and Escrow Commission.

(c) (i) The schedule of escrow charges required to be filed by Subsection (2)(a)(i) takes effect on the day on which the schedule of escrow charges is filed.

(ii) Any changes to the schedule of the escrow charges required to be filed by Subsection (2)(a)(ii) take effect on the day specified in the change to the schedule of escrow charges except that the effective date may not be less than 30 calendar days after the day on which the change to the schedule of escrow charges is filed.

(3) A title insurance insurer, individual title insurance producer, or agency title insurance producer may not file or use any rate or other charge relating to the business of title insurance, including rates or charges filed for escrow that would cause the title insurance company, individual title insurance producer, or agency title insurance producer to:

(a) operate at less than the cost of doing:

(i) the insurance business; or

(ii) the escrow business; or

(b) fail to adequately underwrite a title insurance policy.

(4) (a) All or any of the schedule of rates or schedule of charges, including the schedule of escrow charges, may be changed or amended at any time, subject to the limitations in this Subsection (4).

(b) Each change or amendment shall:

(i) be filed with the commissioner, subject to review by the Title and Escrow Commission; and

(ii) state the effective date of the change or amendment, which may not be less than 30 calendar days after the day on which the change or amendment is filed.

(c) Any change or amendment remains in force for a period of at least 90 calendar days from the change or amendment's effective date.

(5) While the schedule of rates and schedule of charges are effective, a copy of each shall be:

(a) retained in each of the offices of:

(i) the title insurance insurer in this state;

(ii) the title insurance insurer's individual title insurance producers or agency title insurance producers in this state; and

(b) upon request, furnished to the public.

(6) Except in accordance with the schedules of rates and charges filed with the commissioner, a title insurance insurer, individual title insurance producer, or agency title insurance producer may not make or impose any premium or other charge:

(a) in connection with the issuance of a policy of title insurance; or

(b) for escrow services performed in connection with the issuance of a policy of title insurance.

Amended by Chapter 319, 2013 General Session

31A-19a-210. Dividend and participating plans.

(1) (a) This part does not prohibit the distribution by an insurer to a policyholder of any of the following allowed or returned by the insurer:

(i) dividends;

(ii) savings; or

(iii) unabsorbed premium deposits.

(b) Notwithstanding Subsection (1)(a), an insurer may not distribute dividends, savings, or unabsorbed premium deposits to an entity that has no insurable interest in the insurance.

(2) An insurer may not unfairly discriminate between policyholders in the payment of dividends, savings, or unabsorbed premium deposits.

(3) (a) A declaration of dividends or schedule explaining the basis for the distribution of dividends, savings, or unabsorbed premium deposits allowed or returned by an insurer to its policyholders is not a rating plan or system if the insurer:

(i) determines and declares the declaration or schedule after a specified policy accounting period; and

(ii) files the declaration or schedule pursuant to Section 31A-21-310.

(b) A declaration or schedule described under Subsection (3)(a) is not required to be filed with the commissioner under this chapter.

(4) (a) A dividend or participating plan developed by insurers establishing given criteria for eligibility and the general basis for distribution for a dividend, if declared, is considered a rating plan if the plan is to be applicable to an insurance policy from its inception.

(b) A plan described in Subsection (4)(a) shall be filed with the commissioner pursuant to this part.

(5) An insurer may not make the distribution of a dividend or any portion of a dividend conditioned upon renewal of the policy or contract.

Enacted by Chapter 130, 1999 General Session

31A-19a-211. Premium rate reduction for seniors -- Motor vehicle accident prevention course -- Curriculum -- Certificate -- Exception.

(1) (a) Each rate, rating schedule, and rating manual for the liability, personal injury protection, and collision coverages of private passenger motor vehicle insurance policies submitted to or filed with the commissioner shall provide for an appropriate reduction in premium charges for those coverages if the principal operator of the covered vehicle:

(i) is a named insured who is 55 years of age or older; and

(ii) has successfully completed a motor vehicle accident prevention course as outlined in Subsection (2).

(b) Any premium reduction provided by an insurer under this section is

presumed to be appropriate unless credible data demonstrates otherwise.

(2) (a) The curriculum for a motor vehicle accident prevention course under this section shall include:

(i) how impairment of visual and audio perception affects driving performance and how to compensate for that impairment;

(ii) the effects of fatigue, medications, and alcohol on driving performance, when experienced alone or in combination, and precautionary measures to prevent or offset ill effects;

(iii) updates on rules of the road and equipment, including safety belts and safe, efficient driving techniques under present day road and traffic conditions;

(iv) how to plan travel time and select routes for safety and efficiency; and

(v) how to make crucial decisions in dangerous, hazardous, and unforeseen situations.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Public Safety may make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a course under this section.

(ii) These rules may include provisions allowing the department to conduct on-site visits to ensure compliance with agency rules and this chapter.

(iii) These rules shall be specific as to time and manner of visits and provide for methods to prohibit or remedy forcible visits.

(3) (a) The premium reduction required by this section shall be effective for a named insured for a three-year period after successful completion of the course outlined in Subsection (2).

(b) The insurer may require, as a condition of maintaining the premium reduction, that the named insured not be convicted or plead guilty or nolo contendere to a moving traffic violation for which points may be assessed against the named insured's driver license except for a violation under Subsection 53-3-221(12).

(4) Each person who successfully completes the course outlined in Subsection (2) shall be issued a certificate by the organization offering the course. The certificate qualifies the person for the premium reduction required by this section.

(5) This section does not apply if the approved course outlined in Subsection (2) is attended as a penalty imposed by a court or other governmental entity for a moving traffic violation.

Amended by Chapter 382, 2008 General Session

31A-19a-212. Premium increases prohibited for certain claims or inquiries.

(1) Each rate, rating schedule, and rating manual filed for personal lines insurance may not permit a premium increase due to:

(a) a telephone call or other inquiry that does not result in the insured requesting the payment of a claim; or

(b) a claim under a policy of insurance covering a motor vehicle or the operation of a motor vehicle resulting from any incident, including acts of vandalism, in which the person named in the policy or any other person using the insured motor vehicle with the express or implied permission of the named insured is not at fault.

(2) Subsection (1) prohibits a premium increase when:

(a) a policy is issued; or
(b) a policy is renewed.
(3) This section is an exception to Section 31A-19a-201.

Amended by Chapter 117, 2004 General Session
Amended by Chapter 266, 2004 General Session

31A-19a-213. Joint underwriting.

Notwithstanding Subsection 31A-19a-306(2)(a), insurers participating in joint underwriting associations or joint reinsurance pursuant to Section 31A-20-102 or other arrangements for risk sharing may in connection with such activity act in cooperation with each other in the making of one or more of the following:
(1) rates;
(2) rating systems;
(3) policy forms;
(4) underwriting rules;
(5) surveys;
(6) inspections and investigations;
(7) the furnishing of loss and expense statistics or other information; or
(8) research.

Enacted by Chapter 130, 1999 General Session

31A-19a-214. Rating tiers.

(1) An insurer may file with the commissioner a rate filing that provides for a program with more than one rate level in the same company or group of companies if:
(a) the program is based, to the extent feasible, upon mutually exclusive underwriting rules per tier;
(b) the underwriting rules are based on clear, objective criteria that would lead to a logical distinguishing of potential risk; and
(c) in filing to establish tiers, the insurer provides supporting information that evidences a clear distinction between the expected losses and expenses for each tier.
(2) A rating tier may not be continued if premium, loss, and expense data fail to show a continued clear distinction between the tiers.

Enacted by Chapter 130, 1999 General Session

31A-19a-215. False or misleading information.

A person or organization may not:
(1) willfully withhold from the commissioner, any rate service organization, or any insurer information that will affect the rates or premiums chargeable under this chapter; or
(2) knowingly give false or misleading information to the commissioner, any rate service organization, or any insurer.

Enacted by Chapter 130, 1999 General Session

31A-19a-216. Charging of rates.

An authorized insurer, licensed insurance producer, employee, other representative of an authorized insurer may not knowingly:

(1) charge or demand a rate or receive a premium that departs from the rates, rating plans, classifications, schedules, rules, and standards in effect on behalf of the insurer; or

(2) issue or make any policy or contract involving a violation of Subsection (1).

Amended by Chapter 298, 2003 General Session

31A-19a-217. Grievance procedures.

(1) (a) An insured affected by a rate may submit a written request for information to the rate service organization or insurer that made the rate.

(b) The rate service organization or insurer shall answer a request made under Subsection (1)(a) within 45 calendar days from the date it received the request by furnishing all pertinent rating information to:

(i) the insured; or

(ii) the insured's authorized representative.

(2) (a) A person aggrieved by the manner in which a rate service organization or an insurer has applied its rating system in connection with the insurance afforded to that person may submit a written request for review to the rate service organization or insurer.

(b) If a request for review is filed under Subsection (2)(a), the rate service organization or insurer shall provide a reasonable review procedure within Utah.

(c) The review shall examine the application of the rating system in connection with the insurance afforded the person that requested review.

(d) The person that requested review may be heard in person or through an authorized representative.

(e) If the rate service organization or insurer fails to grant the request for review within 30 calendar days from the date the request is made, the applicant may appeal in writing to the commissioner.

(f) If an appeal is filed under Subsection (2)(e), the commissioner may order the rate service organization or insurer to provide the review in accordance with this Subsection (2).

(3) After a review under Subsection (2), the person that requested review may request the commissioner to confirm that the insurance afforded was rated according to filed rates and rating plans.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-218. Appeal from filing.

(1) (a) A person aggrieved by a filing that is in effect may apply to the commissioner in writing for a hearing.

(b) The application described under Subsection (1)(a) shall:

(i) specify the grounds upon which the applicant intends to rely to establish the grievance; and

(ii) state why the filing does not meet the requirements of law.

(2) On receipt of an application for hearing under Subsection (1), the commissioner shall grant the requested hearing if the commissioner finds that:

(a) the application was made in good faith;

(b) the grievance is justified, assuming the applicant's grounds can be established; and

(c) the grounds otherwise justify holding such a hearing.

(3) A hearing granted under Subsection (2) shall be held:

(a) within 30 calendar days from the date of receipt of the application; and

(b) not less than 10 days after written notice to:

(i) the applicant;

(ii) each insurer that made the filing; and

(iii) each rate service organization that made the filing.

(4) (a) If after the hearing the commissioner finds that the filing is defective, the commissioner shall issue an order:

(i) specifying the respects in which the filing fails to meet the requirements of the law; and

(ii) setting a date after which the filing ceases to be effective.

(b) A copy of the order shall be sent to each party to the dispute.

(c) The order may not affect any contract or policy made or issued before the date set forth in the order.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-301. Operation and control of rate service organizations.

(1) (a) A rate service organization may not provide any service relating to statistical collection or the rates of any insurance subject to this chapter unless the organization is licensed under Section 31A-19a-302.

(b) An insurer may not use the services of the organization for the purposes described in Subsection (1)(a), unless the organization is licensed under Section 31A-19a-302.

(2) A rate service organization may not refuse to supply any services for which it is licensed in this state to any insurer:

(a) authorized to do business in this state; and

(b) that offers to pay the fair and usual compensation for the services.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-302. Licensing of rate service organizations.

(1) A rate service organization applying for a license shall include with its application:

(a) a copy of its constitution, charter, articles of organization, agreement, association, or incorporation, and a copy of its bylaws, plan of operation, and any other rules or regulations governing the conduct of its business;

(b) a list of its members and subscribers;

(c) the name and address of one or more residents of Utah upon whom notices,

processes affecting it, or orders of the commissioner may be served;

(d) a statement explaining in what capacity it plans to function and showing its technical qualifications for acting in the capacity for which it seeks a license;

(e) biographical information, as defined by the department, of the officers and directors of the organization; and

(f) any other relevant information and documents that the commissioner requires.

(2) A rate service organization that applies for a license under Subsection (1) shall promptly notify the commissioner of every material change in the facts or in the documents on which its application was based.

(3) (a) The commissioner shall issue a license specifying the authorized activity of an applicant, if the commissioner finds that:

(i) the applicant and the natural persons through whom it acts are competent, trustworthy, and technically qualified to provide the services proposed; and

(ii) all the requirements of law are met.

(b) The commissioner may not issue a license if the proposed activity would tend to:

(i) create a monopoly; or

(ii) lessen or substantially lessen the competition in any market.

(4) (a) Any license issued under this chapter shall be subject to annual renewal.

(b) A fee shall be charged for the initial license and for renewal. The fee shall be set by the Legislature under Section 31A-3-103.

(5) Any amendment to a document filed under Subsection (1)(a) shall be filed within at least 30 calendar days after the day the document becomes effective. Failure to comply with this Subsection (5) is a ground for revocation of the license granted under Subsection (3).

(6) The license of each rate service organization licensed under former Title 31, Chapter 18, is continued under this chapter.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-303. Termination of license.

(1) A license issued under this chapter remains in force until:

(a) revoked, suspended, or limited under Subsection (2);

(b) lapsed under Subsection (3); or

(c) surrendered to and accepted by the commissioner.

(2) (a) After a hearing, the commissioner may revoke, suspend, or limit in whole or in part, the license of any person licensed under this part, if:

(i) the licensee is found to be unqualified;

(ii) the licensee is found to have violated:

(A) an insurance statute;

(B) a valid rule under Subsection 31A-2-201(3); or

(C) a valid order under Subsection 31A-2-201(4); or

(iii) the licensee's methods and practices in the conduct of business endanger the legitimate interests of policyholders, insurers, or the public.

(b) An order suspending a license issued under this chapter shall specify the

period of suspension, but in no event may the suspension period exceed 12 months.

(3) (a) Any license issued under this chapter shall lapse if the licensee fails to pay a fee when due.

(b) A license that lapses under this Subsection (3) may be reinstated if the licensee, within 90 calendar days from the day the license lapsed, pays twice the usual license renewal fee.

(4) A licensee whose license is suspended or revoked, but who continues to act as a licensee is subject to the penalties applicable to violating Subsection 31A-19a-301(1).

(5) (a) An order revoking a license under Subsection (2) may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If under Subsection (5)(a) no time is specified, the former licensee may not apply for five years, without the express approval of the commissioner.

(6) (a) Any person whose license is suspended or revoked shall, when the suspension ends or a new license is issued, pay all fees that would have been payable if the license had not been suspended or revoked, unless the commissioner, by order, waives the payment of the interim fees.

(b) If a new license is issued more than three years after the revocation of a similar license, Subsection (6)(a) applies only to the fees that would have accrued during the three years immediately following the revocation.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-304. Probation.

(1) (a) In any circumstances that would justify a suspension under Section 31A-19a-303, instead of a suspension, the commissioner may, after a hearing, put the licensee on probation for a specified period not to exceed 12 months from the date of probation.

(b) The probation order shall state the conditions for retention of the license, which shall be reasonable.

(2) Violation of the probation constitutes grounds for revocation pursuant to a proceeding authorized under Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

31A-19a-305. Anti-competitive agreements prohibited.

(1) (a) An insurer may not assume any obligation to any person other than a policyholder or other company under common control, to use or adhere to certain rates or rating procedures.

(b) Except for a policyholder or other company under common control, a person may not impose any penalty or other adverse consequence for failure of an insurer to adhere to certain rates or rating procedures.

(2) This section does not apply to rates used:

(a) by a joint underwriting group;

(b) by a pool;

(c) under quota share reinsurance treaties; or

(d) by a residual market mechanism.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-306. Insurers and rate service organizations -- Prohibited activity.

(1) An insurer or rate service organization may not:

(a) attempt to monopolize, or combine or conspire with any other person to monopolize an insurance market; or

(b) engage in a boycott of an insurance market on a concerted basis.

(2) (a) Except as provided in Subsection (2)(c), an insurer may not agree with any other insurer or with a rate service organization to mandate adherence to or to mandate use of any:

(i) rate;

(ii) prospective loss cost;

(iii) rating plan;

(iv) rating schedule;

(v) rating rule;

(vi) policy or bond form;

(vii) rate classification;

(viii) rate territory;

(ix) underwriting rule;

(x) survey;

(xi) inspection; or

(xii) material similar to those described in Subsections (2)(a)(i) through (xi).

(b) The fact that two or more insurers, whether or not members or subscribers of a rate service organization, use consistently or intermittently the same materials described in Subsection (2)(a) is not sufficient in itself to support a finding that an agreement exists.

(c) An insurer may enter into an agreement prohibited by Subsection (2)(a):

(i) to the extent needed to facilitate the reporting of statistics to:

(A) a rate service organization;

(B) a statistical agent; or

(C) the commissioner; or

(ii) as provided in Part 4.

(3) Two or more insurers having a common ownership or operating in this state under common management or control may act in concert between or among themselves with respect to any matters pertaining to those activities authorized in this section as if they constituted a single insurer.

(4) An insurer or rate service organization may not make any arrangement with any other insurer, rate service organization, or other person that has the purpose or effect of unreasonably restraining trade or unreasonably lessening competition in the business of insurance.

Enacted by Chapter 130, 1999 General Session

31A-19a-307. Rate service organizations -- Permitted activity.

A rate service organization may on behalf of its members and subscribers:

(1) develop statistical plans including territorial and class definitions;

(2) collect statistical data from:

(a) members;

(b) subscribers; or

(c) any other source;

(3) prepare, file, and distribute prospective loss costs which may include provisions for special assessments;

(4) prepare, file, and distribute:

(a) factors;

(b) calculations;

(c) formulas pertaining to classification; or

(d) territory, increased limits, and other variables;

(5) prepare, file, and distribute supplementary rating information;

(6) distribute information that is required or directed to be filed with the commissioner;

(7) conduct research and on-site inspections to prepare classifications of public fire defenses;

(8) consult with public officials regarding public fire protection as it would affect members, subscribers, and others;

(9) conduct research and onsight inspections to discover, identify, and classify information relating to causes or prevention of losses;

(10) conduct research relating to the impact of statutory changes upon prospective loss costs;

(11) prepare, file, and distribute policy forms and endorsements;

(12) consult with members, subscribers, and others concerning use and application of the policy forms and endorsements described in Subsection (11);

(13) conduct research and on-site inspections for the purpose of providing risk information relating to individual structures;

(14) conduct on-site inspections to determine rating classifications for individual insureds;

(15) collect, compile, and publish past and current prices of individual insurers, provided the information is also made available to the general public at a reasonable cost;

(16) collect and compile exposure and loss experience for the purpose of individual risk experience ratings;

(17) furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section; and

(18) engage in any other activity not prohibited by this title.

Enacted by Chapter 130, 1999 General Session

31A-19a-308. Rate service organizations -- Filing requirements.

(1) A rate service organization shall file with the commissioner any of the following that is used in this state:

(a) any statistical plan;

(b) all prospective loss costs;
(c) provisions for special assessments;
(d) all supplementary rating information; and
(e) any change, amendment, or modification of an item described in Subsections (1)(a) through (d).
(2) The filings required under Subsection (1) shall be subject to Sections 31A-19a-203 and 31A-19a-206 and other provisions of this chapter relating to filings made by insurers.

Enacted by Chapter 130, 1999 General Session

31A-19a-309. Recording and reporting of experience.
(1) (a) The commissioner may adopt rules for the development of statistical plans, for use by all insurers in recording and reporting their loss and expense experience, in order that the experience of those insurers may be made available to the commissioner.
(b) The rules provided for in Subsection (1) may include:
(i) the data that shall be reported by an insurer;
(ii) definitions of data elements;
(iii) the timing and frequency of data reporting by an insurer;
(iv) data quality standards;
(v) data edit and audit requirements;
(vi) data retention requirements;
(vii) reports to be generated; and
(viii) the timing of reports to be generated.
(c) Except for workers' compensation insurance under Section 31A-19a-404, an insurer may not be required to record or report its experience on a classification basis that is inconsistent with its own rating system.
(2) (a) The commissioner may designate one or more rate service organizations to assist the commissioner in gathering that experience and making compilations of the experience.
(b) The compilations developed under Subsection (2)(a) shall be made available to the public.
(3) The commissioner may make rules and plans for the interchange of data necessary for the application of rating plans.
(4) To further uniform administration of rate regulatory laws, the commissioner and every insurer and rate service organization may:
(a) exchange information and experience data with insurance supervisory officials, insurers, and rate service organizations in other states; and
(b) consult with the persons described in Subsection (4)(a) with respect to the application of rating systems and the reporting of statistical data.

Amended by Chapter 297, 2011 General Session

31A-19a-401. Scope of part.
(1) This part applies to workers' compensation insurance and employers' liability

insurance written in connection with it.

(2) All insurers writing workers' compensation coverage, including the Workers' Compensation Fund created under Chapter 33, are subject to this part.

Amended by Chapter 222, 2000 General Session

31A-19a-402. Purpose.

It is the purpose of this part to:

(1) establish specific provisions for the filing of workers' compensation rates in addition to those provided in Part 2;

(2) provide for review by the department of workers' compensation rate-making and the results of it; and

(3) provide for a designated rate service organization to perform certain functions on behalf of the commissioner.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-403. Definitions.

As used in this part:

(1) "Uniform classification plan," in addition to the definition of "classification system" in Section 31A-19a-102, means a plan:

(a) that is consistent between all insurers of classification codes and descriptions; and

(b) by which like workers' compensation exposures are grouped for the purposes of underwriting, rating, and statistical reporting.

(2) "Uniform experience rating plan" means a plan that is consistent between all insurers for experience rating entities insured for workers' compensation insurance.

(3) "Uniform statistical plan" means a plan that is consistent between all insurers that is used for the reporting of workers' compensation insurance statistical data.

Amended by Chapter 90, 2004 General Session

31A-19a-404. Designated rate service organization.

(1) For purposes of workers' compensation insurance, the commissioner shall designate one rate service organization to:

(a) develop and administer the uniform statistical plan, uniform classification plan, and uniform experience rating plan filed with and approved by the commissioner;

(b) assist the commissioner in gathering, compiling, and reporting relevant statistical information on an aggregate basis;

(c) develop and file manual rules, subject to the approval of the commissioner, that are reasonably related to the recording and reporting of data pursuant to the uniform statistical plan, uniform experience rating plan, and the uniform classification plan; and

(d) develop and file the prospective loss costs pursuant to Section 31A-19a-406.

(2) The uniform experience rating plan shall:

(a) contain reasonable eligibility standards;

(b) provide adequate incentives for loss prevention; and

(c) provide for sufficient premium differentials so as to encourage safety.

(3) Each workers' compensation insurer, directly or through its selected rate service organization, shall:

(a) record and report its workers' compensation experience to the designated rate service organization as set forth in the uniform statistical plan approved by the commissioner;

(b) adhere to a uniform classification plan and uniform experience rating plan filed with the commissioner by the rate service organization designated by the commissioner; and

(c) adhere to the prospective loss costs filed by the designated rate service organization.

(4) The commissioner may adopt rules for:

(a) the development and administration by the designated rate service organization of the:

(i) uniform statistical plan;

(ii) uniform experience rating plan; and

(iii) uniform classification plan;

(b) the recording and reporting of statistical data and experience rating data by the various insurers writing workers' compensation insurance;

(c) the selection, retention, and termination of the designated rate service organization; and

(d) providing for the equitable sharing and recovery of the expense of the designated rate service organization to develop, maintain, and provide the plans, services, and filings that are used by the various insurers writing workers' compensation insurance.

(5) (a) Notwithstanding Subsection (3), an insurer may develop directly or through its selected rate service organization subclassifications of the uniform classification system upon which a rate may be made.

(b) A subclassification shall be filed with the commissioner 30 days before its use.

(c) The commissioner shall disapprove subclassifications if the insurer fails to demonstrate that the data produced by the subclassifications can be reported consistently with the uniform statistical plan and uniform classification plan.

(6) Notwithstanding Subsection (3), an insurer may, directly or though its selected rate service organization, develop its own experience modifications based on the uniform statistical plan, uniform classification plan, and uniform rating plan filed by the rate service organization designated by the commissioner under Subsection (1).

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-405. Filing of rates and other rating information.

(1) (a) All workers' compensation rates, supplementary rate information, and supporting information shall be filed at least 30 days before the effective date of the rate or information.

(b) Notwithstanding Subsection (1)(a), on application by the filer, the

commissioner may authorize an earlier effective date.

(2) The loss and loss adjustment expense factors included in the rates filed under Subsection (1) shall be the prospective loss costs filed by the designated rate service organization under Section 31A-19a-406.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-406. Filing requirements for designated rate service organization.

(1) The rate service organization designated under Section 31A-19a-404 shall file with the commissioner the following items proposed for use in this state at least 30 calendar days before the date they are distributed to members, subscribers, or others:

(a) each prospective loss cost with its supporting information;

(b) the uniform classification plan and rating manual;

(c) the uniform experience rating plan manual;

(d) the uniform statistical plan manual; and

(e) each change, amendment, or modification of any of the items listed in Subsections (1)(a) through (d).

(2) (a) If the commissioner believes that prospective loss costs filed violate the excessive, inadequate, or unfair discriminatory standard in Section 31A-19a-201 or any other applicable requirement of this part, the commissioner may require that the rate service organization file additional supporting information.

(b) If, after reviewing the supporting information, the commissioner determines that the prospective loss costs violate these requirements, the commissioner may:

(i) require that adjustments to the prospective loss costs be made; or

(ii) call a hearing for any purpose regarding the filing.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-407. Cooperation among rating organizations and insurers

(1) Notwithstanding Section 31A-19a-305, rate service organizations and insurers may cooperate with each other in rate-making or in other matters within the scope of this part.

(2) (a) The commissioner may review the cooperative activities and practices permitted under Subsection (1).

(b) If, after a hearing, the commissioner finds any of the cooperative activities or practices permitted under Subsection (1) to be unfair, unreasonable, or otherwise inconsistent with the law, the commissioner may issue an order:

(i) specifying in what respects the activity or practice is unfair, unreasonable, or otherwise inconsistent with the law; and

(ii) requiring the persons or entities involved to discontinue the activity or practice.

Enacted by Chapter 130, 1999 General Session

31A-19a-408. Procedures for workers' compensation tiered rate filings.

(1) Notwithstanding Section 31A-19a-214 and subject to the other provisions of

this section, a workers' compensation insurer may file with the commissioner a rate filing for workers' compensation insurance that provides for a plan with more than one rate tier for a single insurer or an insurer group with common ownership if the filing shows that:

(a) each tier is established on underwriting rules that are based on criteria that would lead to a logical distinguishing of potential risk; and

(b) supporting actuarial analysis or other information that shows a clear distinction between the following for each tier:

(i) expected losses and expenses; and

(ii) actual losses and expenses.

(2) A workers' compensation insurer shall file with the commissioner an update of the actuarial analysis or other information required under Subsection (1)(b) at least every three years.

(3) A workers' compensation insurer may apply underwriting expertise and judgment in the tier placement process, except that underwriting expertise and judgment shall:

(a) be applied in a prudent manner; and

(b) when applied, be fair, reasonable, and fully documented.

Enacted by Chapter 242, 2011 General Session